



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,336	01/14/2004	Joseph G. Renter	K47.12-0001	3462

27367 7590 09/21/2005

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400 - INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

EXAMINER

REESE, DAVID C

ART UNIT PAPER NUMBER

3677

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,336

Applicant(s)

RENTER, JOSEPH G.

Examiner

David C. Reese

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-13 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-10 is/are allowed.
- 6) ☒ Claim(s) 2, 11-13 and 15-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to Applicant's amendment filed 7/19/2005.

Status of Claims

- [1] Claims 2-13, 15-19 are pending.

Drawings

- [2] The drawing(s) were previously objected for informalities. In view of Applicant's replacement drawing(s) submitted on 7/19/2005, all previous objection(s) to the drawings have been withdrawn. Accordingly, the changes have been entered.

Specification

- [3] The disclosure was previously objected to for informalities. Applicant has successfully addressed these issues in the amendment filed on 7/19/2005. Accordingly, the objection(s) to the specification have been withdrawn.

Claim Rejections - 35 USC § 103

- [4] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- [5] Claims 2, 11-13, 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pejchar, US-758,848, in view of King, Jr., US- 3,443,398.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the

Art Unit: 3677

prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claim 2, Pejchar teaches of a conically-shaped stud mounting (c) extending conically outward from a conical point to form a conical basket for securing a stone therein, a post with a near end (a) attached to the conical point and a far end, and a nut engagable with the far end of the post for securing the stud mounting to the ear (b);

a dangling element for suspension below the stud mounting (e); and

an intermediary connecting member (d) having a center aperture (inside of d) adapted to allow the post (a) to be inserted therethrough, and of size to allow a portion of the conical basket (c) to also extend therethrough, wherein the intermediary connecting member (d) removably engages the conical basket (c),

The difference between the claim and Pejchar is the claim recites: wherein the intermediary connecting member includes a portion for flexibly supporting the dangling element. Simpson discloses an earring assembly similar to that of Pejchar. In addition, Simpson further teaches wherein the intermediary connecting member (26) includes a portion (28) for flexibly supporting the dangling element (32). It would have been obvious to one of ordinary skill in the art, having the disclosures of Pejchar and Simpson before him at the time the invention was made, to modify the intermediary connecting member of Pejchar to include a portion for flexibly supporting a dangling element, as in Simpson. One would have been motivated to make such a combination because one would want to achieve that exact design feature, as taught by Simpson. Further, in both cases, the dangling element is still below the stud mounting ("so that the dangling

Art Unit: 3677

element is below the stud mounting” as currently claimed. Both varieties of design (dangling element attached to intermediary connecting member as opposed to post) are simple art recognized equivalents of one another, design choices, as it has not disclosed that it solves any stated problem of the prior art or is for any particular purpose; the same functionality being obtained from both.

As for Claim 11, Pejchar in view of King, Jr. teach of a jewelry design for adorning an ear, comprising:

a stud mounting having a stone (c of Pejchar), a bezel wire for securing the stone (c of Pejchar), a support wire attached to the bezel wire (a of Pejchar), a post with a near end (a of Pejchar) attached to the support wire and a far end, and a nut (b of Pejchar) engagable with the far end of the post (a of Pejchar) for securing the stud mounting (c of Pejchar) to the ear;

a dangling element (32 of King Jr.) having a wire attachment extending therefrom (34 of King Jr.); and

a removable intermediary connecting member (d of Pejchar) which removably, conformingly engages an exterior surface of the support wire (c of Pejchar), and which includes a jump ring extending (substituting 28 and below from King Jr. to the bottom of d of Pejchar) outward therefrom for flexibly supporting the wire attachment (34 of King Jr.) of the dangling element (32 of King Jr.).

As for Claim 12, Pejchar in view of King, Jr. teach of a jewelry design for adorning an ear, comprising:

a stud mounting having a stone (c of Pejchar), a bezel wire for securing the stone (c of Pejchar), a support wire attached to the bezel wire (a of Pejchar), a post with a near

Art Unit: 3677

end (a of Pejchar) attached to the support wire and a far end, and a nut (b of Pejchar) engagable with the far end of the post (a of Pejchar) for securing the stud mounting (c of Pejchar) to the ear;

a dangling element (32 of King Jr.) having a wire attachment extending therefrom (34 of King Jr.); and

a removable intermediary connecting member (d of Pejchar) which removably, engages an exterior surface of the support wire (c of Pejchar), and which includes a portion for flexibly supporting the wire attachment of the dangling element (in view of 28 and below of King Jr.); and

wherein the intermediary connecting member has a notch (inside of d of Pejchar) formed therein at points where the intermediary connecting member (d) engages the support wire (c).

Re: Claim 13, Pejchar discloses wherein the intermediary connecting member (d) has a beveled area (inside d) formed therein so that the intermediary connecting member (d) does not engage the stone when the jewelry design is worn.

Re: Claim 15, Pejchar discloses wherein the intermediary connecting member (d) engages the wires (c) such as to inhibit rotation relative to the conical basket (c).

As for Claim 16, Pejchar in view of King, Jr. teach of a jewelry design for adorning an ear, comprising:

a dangling element for suspension below the stud mounting (e of Pejchar); and
an intermediary connecting member (d of Pejchar) having a center aperture (inside of d of Pejchar) adapted to allow a post (a of Pejchar) of the stud mounting to be inserted therethrough, the center aperture (inside of d of Pejchar) being of size to allow a

Art Unit: 3677

portion of the conical basket (c) of the stud mounting used to secure a stone to also extend therethrough, and wherein the intermediary connecting member (d of Pejchar) includes a portion (Pejchar in view of substituting 28 and below from King Jr. to the bottom of d of Pejchar) for flexibly supporting the dangling element (32 of King Jr.).

Response to Arguments

[6] Applicant's arguments filed 7/19/2005 regarding rejections under 35 U.S.C. 102 and 35 U.S.C. 103 are considered moot to new grounds of rejection.

Allowable Subject Matter

[7] Claims 3-10 are allowable.

Reasons for Allowance

[8] The following is an examiner's statement of reasons for allowance:

As for Claims 4 and 8, the prior art, incorporating other corresponding limitations as set forth above, does not teach of the specific structure of intermediary connecting member possessing a number of legs and notches forming various shapes, respective to that of the number of wires forming the conical basket of the stud mounting of the instant invention, allowing said legs and notches to then engage a respective one of the said wires forming the conical basket. Claims 3, 5-7; and 9-10 are allowable since they are dependent upon independent claims 4 and 8.

Art Unit: 3677

Conclusion

[9] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

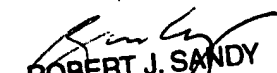
[10] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am - 6:00 pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. **Please also note the change in the fax phone number to (571) 273-8300 for the organization where this application or proceeding is assigned.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DCR

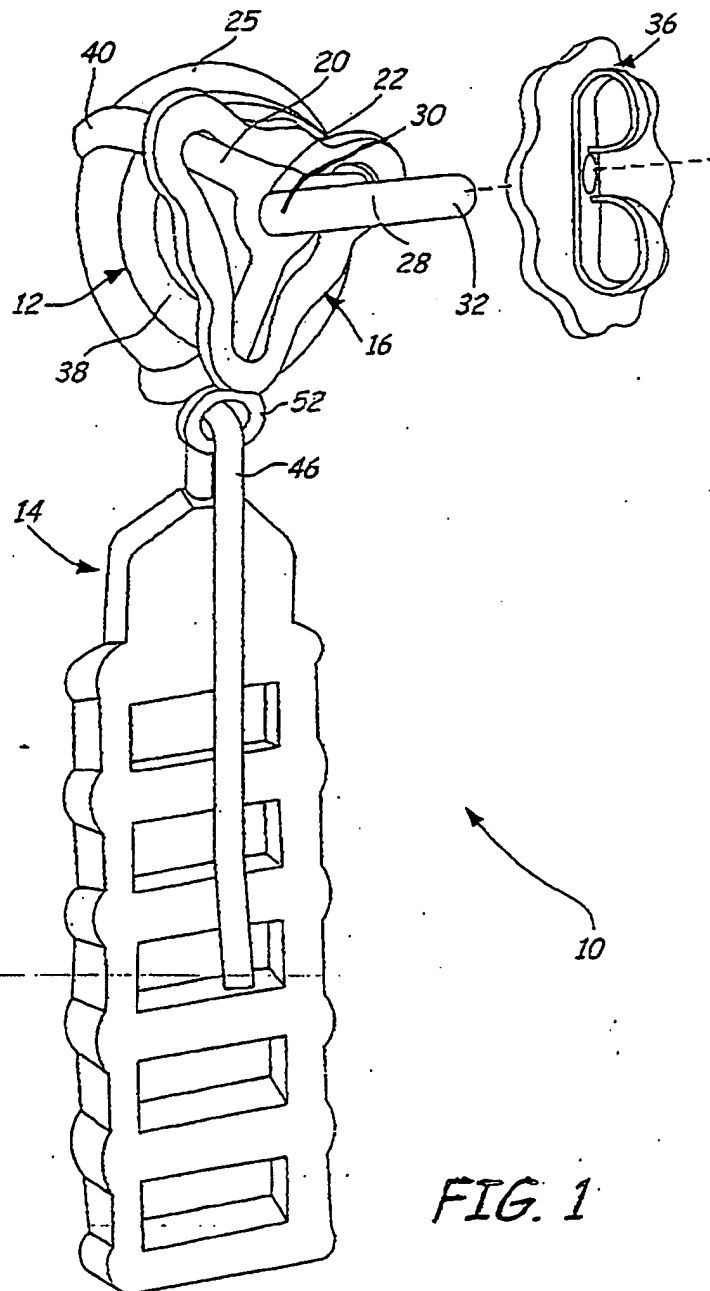
Sincerely,
David Reese
Assistant Examiner
Art Unit 3677


ROBERT J. SANDY
PRIMARY EXAMINER



REPLACEMENT SHEET

10/757,336



BEST AVAILABLE COPY

REPLACEMENT SHEET

10/757,336

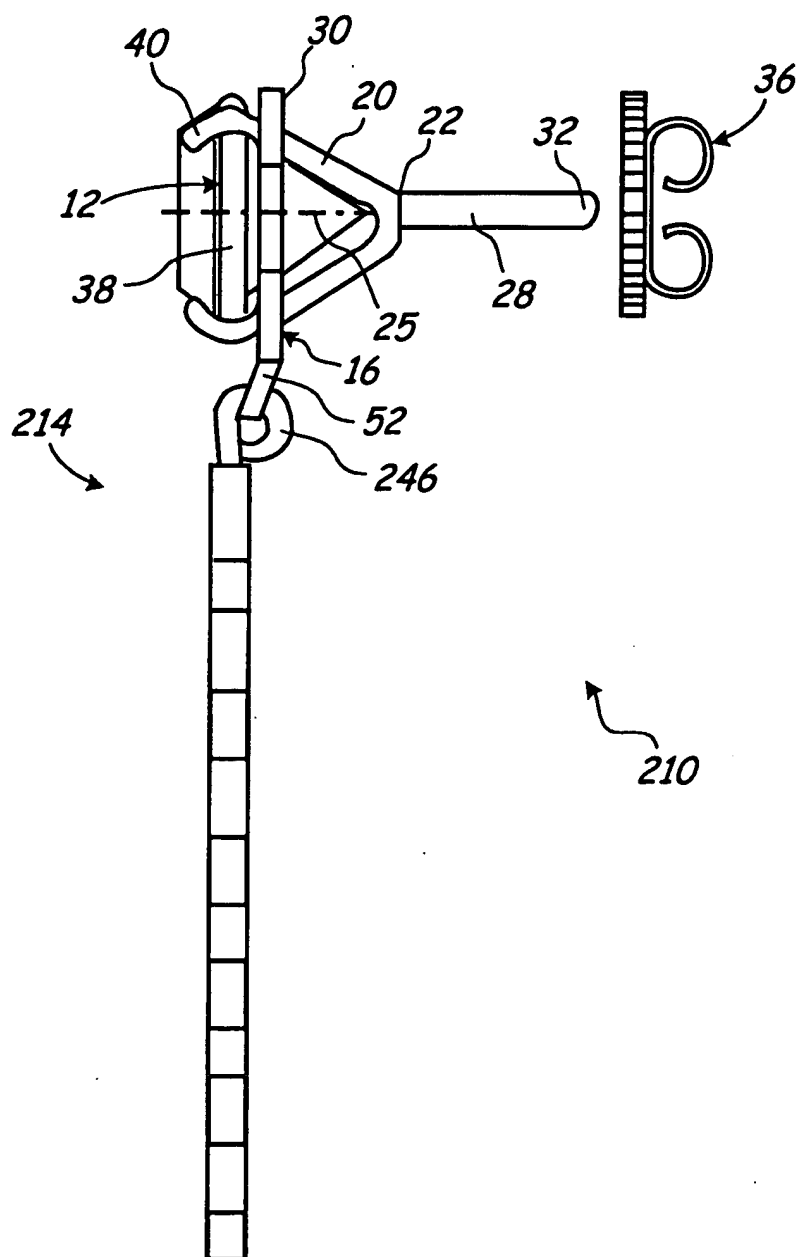


FIG. 2